

City of Eugene
Human Rights Commission

Research on Gender Identity Code Protections

Presented to Human Rights Commission
September 20, 2005

Research Documents:

- 1) Frequently Asked Questions about Gender Identity Code Revision Issues
- 2) Comparison of a Sampling of Cities with Gender Identity Code Protections
- 3) Comparison of Gender Identity Code Language Regarding Places of Public Nudity
- 4) More Information on Contacts made with Shelters in Oregon and Outside of Oregon
- 5) Current Policies of the Eugene Mission

Eugene Human Rights Program
FREQUENTLY ASKED QUESTIONS ABOUT GENDER IDENTITY AND
PROPOSED CODE REVISIONS
PART 1: GENDER IDENTITY DEFINITIONS

Gender Identity: Proposed code language defines Gender Identity as “a person's actual or perceived sex, including a person's identity, appearance, expression or behavior, whether or not that identity, appearance, expression or behavior is different from that stereotypically associated with the person's sex at birth.”

Sexual Orientation: the romantic and sexual attraction a person feels to a particular gender or genders (gay, lesbian, heterosexual, or bisexual). Sexual orientation refers to whom one is sexually attracted, whereas gender identity refers to one's innate sense of self regarding gender.

Gender Expression: the external presentation or appearance of a person's gender, such as dress, mannerisms, hair style, and speech. A person's gender expression may differ from their gender identity.

Transgender: a generally accepted umbrella term describing anyone who exhibits characteristics of a gender that does not match their apparent or actual physical sex. The term can include people who are transsexual, crossdressers (transvestites), drag kings and queens, and anyone who breaks gender boundaries, regardless of sex, gender identity, or sexual orientation. Sometimes the abbreviated word “trans” is used.

Gender Variant: someone whose combination of legal sex, birth sex, gender identity, gender expression, and perceived gender do not line up according to societal expectations.

Transsexual: a medical term applied to those transgender people who feel such incongruity between their body and their gender that they seek medical assistance in transforming their body to address the incongruity, regardless of sexual orientation.

FTM: a person who has transitioned from “female-to-male,” meaning a person was assigned female at birth, but now identifies and lives as a male. Also known as a “transgender man”.

MTF: a person who has transitioned from “male-to-female,” meaning a person was assigned male at birth, but now identifies and lives as a female. Also known as a “transgender woman”.

Intersex: an individual whose biological and/or genetic traits at birth do not correspond with conventional concepts of male/female anatomy. Most people choose to refer to themselves as intersex rather than hermaphrodites. While some intersex people are also transgender, intersex people as a group have a unique set of needs and struggles.

Transition: the process of changing one's presentation and/or expression to align with one's gender identity. Some of these changes include name change, pronoun change, hormonal modifications, or surgery. Transition varies greatly across the transgender community, both in what people choose to change and when certain changes feel most comfortable.

PART 2: FREQUENTLY ASKED QUESTIONS/COMMENTS ABOUT GENDER IDENTITY

My religion says transsexuality is a sin.

- Our community includes people of many different faiths, some who believe that transsexuality is moral and some who do not.
- Regardless of a community member's opinion on the morality of transsexuality, transgender people deserve access to basic needs of survival such as housing, employment, public accommodation.

I believe a person is either born male or female and that shouldn't be changed.

- The prevailing stance of the health care community is that people function significantly better when allowed to live in the gender with which they identify.
- While the origin and nature of gender variation is a subject of debate among scientists and mental health professionals, many experts in these communities believe that the desire to live in a gender different than the gender one was born into is perfectly valid.

PART 3: FREQUENTLY ASKED QUESTIONS ABOUT GENDER IDENTITY CODE REVISION ISSUES

Much of the opposition in Eugene has been about the use of bathrooms and the notion that the proposed code will make it easier for male predators to pretend to be transgender so they may access women's bathrooms and assault women and/or girls.

- Research of dozens of other municipalities throughout the U.S. with similar code language shows that predatory behavior has not increased after the legislation has been enacted. No jurisdiction has removed these laws after they were enacted. Over 25% of the U.S. population (including the cities of Portland, Salem, Bend, Beaverton, and Lake Oswego and Multnomah and Benton counties) live in areas with gender identity protection laws; this type of crime has not increased after these laws were added.
- The proposed code language would not change the fact that other laws already say it is illegal to harass or assault or gratuitously expose oneself to another person in a bathroom or anywhere else.
- More crucially, people who are transgender are more often the victims rather than the perpetrators of violence. Sixty percent of people who are transgender report being the target of harassment or violence, while the incidence of transgender people committing violent crimes is rare (less than .1%). It is estimated that transgender individuals living in the U.S. today have a one in 12 chance of being murdered (Kay Brown, instructor for "20th Century Transgender History and Experience" at the Harvey Milk Institute in San Francisco, *Washington Blade*, Dec.10, 1999). In contrast, the average person has about a one in 18,000 chance of being murdered (FBI's "Uniform Crimes Reports, Crime in the United States 2000").

It has been said that no new construction will be needed to provide accommodations for transgender individuals. How can we be sure that this won't be challenged?

- In the 78 jurisdictions (as of August, 2005) that have implemented this legislation, we are not aware of any company or place of public accommodation that was required to construct new or has been sued for not constructing reasonable accommodations.
- Attorneys for the City of Eugene examined the proposed code language and have verified that new construction is not mandated.

What has the Eugene Human Rights Program done to inform community members, businesses and other places of employment, housing, and public accommodation of these potential code changes?

- *Public schools:* Superintendents of both Eugene school districts have been notified of the code revision effort and work group and staff members are keeping district diversity coordinators informed and included in the process. Staff and volunteers attended the Eugene 4J Equity Committee on two separate occasions to update committee members on the City's proposed code language and education progress. City Attorney staff is currently working to determine if the school districts are legally affected by the public accommodation portion of the proposed code revisions. It has been reported there are children who identify as transgender in both Eugene school districts.
- *Businesses:* The Eugene Area Chamber of Commerce was made aware of the code effort. Before draft code language was developed, work group members and staff found it difficult to gain the

chamber's interest in this issue; it was surmised that when proposed language was available, businesses would become more interested in the process, but this hasn't been the case so far. It is possible that businesses will become more engaged when proposed code language is considered at the City Council level. Staff and volunteers remain willing to meet with business leaders and answer their questions at any time.

- *Community Education:* The Gender Identity Work Group developed guidelines and written materials for the delivery of educational presentations to a variety of community groups and organizations. The group facilitators made presentations to 10 different audiences with a total of over 170 participants, including two publicly announced education sessions. In addition, individual work group members made presentations to at least 50 different class session and events that have included over 500 participants in the last three years.
- *Media:* Transgender issues continue to be covered by the media. A media packet was developed and a number of TV, newspaper and radio articles about transgender issues and the proposed code revisions have appeared locally, including a panel discussion on radio station KLCC, numerous appearances by the Mayor, Councilor Kelly, commissioners, and community members on KOPT 1600, and a variety of newspaper articles written by *Register-Guard* reporters.
- *Public Hearings:* As the Gender Identity Work Group started developing code language, it held two public input sessions in March and May 2005, which were attended by 85 people. In July, the Human Rights Commission held a public hearing attended by 25 people.

Aren't transgender people already covered under sexual orientation?

- In almost all cases, courts have found that in jurisdictions that only protect on the basis of sexual orientation, it is still legal to discriminate against people who are transgender.

This is such a small part of the population; why are we working to provide protection?

- Even though the Eugene Human Rights Commission is aware, anecdotally, of approximately 100 people who identify as transgender who live and/or work in Eugene, it has every reason to believe that this number is higher.
- The numbers of people affected is much higher, as friends, family, and coworkers all deal with the repercussions of discrimination against people who are transgender.
- When a class of people experience discrimination, legal protection is the right thing to provide regardless of the size of the population.

What concerns are there about code language that allows places of public accommodations with showers, locker rooms, or group sleeping areas to ask for documentation of a person's gender identity?

- **Human dignity:** Asking for documentation has become a way of life in our society; we're asked for ID at the airport, at the bank, during a police traffic stop, etc. But when any one group of people is singled out and asked for documentation when others aren't, the group may feel like they are being given second-class status and this institutionalized action can be interpreted as

discrimination. Encountering disbelief or doubt about who you say you are can be humiliating and invalidating.

- **Logistics of the transition process:** Part of the medically-supervised and recognized transition process includes the changing of personal documentation (driver's license, etc.) to one's new name and gender. This step often does not coincide with the medical transition process; many transgender individuals change documentation and are required by their doctors to live life in their new gender for a year before medical transitions take place. Therefore, a transgender person's anatomy may, for a period of time, be more like the opposite gender than that on the person's identification. For safety purposes and out of respect for other people using the same public accommodation, it may be most appropriate for the transgender person to use the facility that does not match his/her identification.
- **Safety:** People who are transgender and are transitioning often feel vulnerable and want to use the locker room or shower in which they feel they can receive the least attention.
- **Socio-economic barriers:** A higher than average number of people who are transgender are also low-income or homeless. Many are not able to afford surgery, but may be using hormones and may or may not have changed identification. These individuals need to be able to use the place of public accommodation in which they feel most safe and comfortable. Just like the vast majority of non-transgender people, transgender people who are using public facilities because they need to use the facilities for the purpose they are intended.

What is reasonable accommodation for transgender individuals' use of bathrooms, locker and shower facilities? What are the specific guidelines?

- Respectful policies allow transgender people to use the facility of their choice and, at the very least, the facility of the gender they are presenting.
- Some local businesses have made the following compromises:
 - Designate a specific, private bathroom for the person(s) uncomfortable with those who are transgender
 - Grant access to a staff/faculty changing facility
 - Convert a single occupancy bathroom to a gender-neutral facility
 - Add a shower curtain around a portion of a bathing facility
 - Provide a privacy sign on a multiple-stall, sex-segregated bathroom
- Requiring new construction is not a reasonable accommodation.

Is this some unusual code change that is only being proposed in Eugene?

- While it is true that Eugene has a reputation for working on issues not considered by other cities, Eugene would be the 79th governmental entity to add gender identity to its anti-discrimination ordinance. Sixty-two cities, 10 counties, and six states have already added gender identity to their codes and laws. Minneapolis, Minnesota, the first city to enact similar legislation, has had gender identity code protection since 1975. Large and small government entities such as New York City, Carbondale, Illinois, the state of New Mexico, Jefferson County, Kentucky, and Harrisburg, Pennsylvania have similar codes and laws in effect.

- Currently, 27.6% of the U.S. population is covered by laws that protect gender identity. A comprehensive list of these cities, counties and states may be obtained from the Human Rights Program office.
- At present, Eugene is the largest municipality in Oregon without this type of legislation. If gender identity protection is added, Eugene will join Portland, Salem, Lake Oswego, Beaverton, Bend, and Multnomah and Benton (Corvallis) counties.

How is the final decision about adding gender identity to the anti-discrimination code made?

- Currently, the Human Rights Commission is considering the proposed code language. The commission does not have the authority to adopt code language; it only has the ability to make recommendations to the City Council. When the commission completes its work, it will forward its recommendations. The timeline for action is uncertain at this time.
- The City Council decision or a vote of the people are the two ways with which the legislation can be adopted:
 - After the City Council receives a recommendation from the Human Rights Commission, it will do three things before potentially adopting legislation: 1) it will hold a work session on the topic; 2) it will hold a public hearing on the proposed code language; and 3) it will hold a final vote on the code language. During this time the council could ask for an additional work session, it could modify the code language, or it could choose to not move forward with the proposed code language. The public will be notified of each step in the process through city council packets, public meeting notices, and the Human Rights Commission gender identity proposed code revisions interested parties email list.
 - If the City Council adopts the code language, citizens of Eugene have the option of filing an initiative petition to recall the adopted ordinance. Citizens must secure valid signatures from 10% of the citizens who voted in the last mayoral election within 30 days of the ordinance going into effect.

Comparison of a Sampling of Cities with Gender Identity Code Protections

City	Salem, Oregon
Information provided by:	Marilyn Johnston, City of Salem, Human Rights and Relations Specialist, 503-588-6162 Connie Wiggins, City of Salem, Human Resources – 503-588-6162 x7250 Jerry Moore, Salem Police Department, 503-588-6123
Year gender identity protection added to code	2002
Added same time as sexual orientation?	Yes
Does code contain exemptions pertaining to places of public accommodation?	Yes (same wording used in Portland, Multnomah County, Lake Oswego and Beaverton) “The prohibitions in this Chapter against discriminating on the basis of gender identity do not prohibit... Health or athletic clubs or other entities that operate gender-specific facilities involving public nudity such as showers and locker rooms, from requiring an individual to document their gender or transitional status. Such documentation can include but is not limited to a court order, letter from a physician, birth certificate, passport, or driver’s license. ”
Details of any opposition to and/or support for code during proposal process	Lon Mabon of the Oregon Citizens Alliance testified in opposition to code revisions and mentioned locker room issues; no other significant opposition. Not much significant support, either.
Details of any education provided to community after code was adopted	None; City policy documents were updated but no external information was distributed.
Explanation of any known issues since code was implemented	A few inquiries, no actual complaints. Have received some positive feedback and support from community. Hasn’t generated much reaction in general.
Discussion with any homeless shelters in this jurisdiction	Union Gospel Mission, 503-362-3983 – spoke with Randy, a supervisor. Said that as far as he knows, the shelter has housed no transgender clients, and there have been no issues. Said they will assist all community members in need of the mission’s services.
Additional notes	

City	Bend, Oregon
Information provided by:	Patty Stell, City of Bend, City Recorder, 541-388-5517
Year gender identity protection added to code	2004
Added same time as sexual orientation?	Yes
Does code contain exemptions pertaining to places of public accommodation?	No
Details of any opposition to and/or support for code during proposal process	Code language proposal generated significant public debate, mostly about sexual orientation. Issue of cross-dressing related to gender-specific dress codes was discussed. After ordinance was enacted, attempted citizen initiative petition was short by a handful of signatures, so referendum to appeal ordinance did not go to voters.
Details of any education provided to community after code was adopted	Not aware of any
Explanation of any known issues since code was implemented	None
Discussion with any homeless shelters in this jurisdiction	Bethlehem Inn, 541-322-8768 – Liz Hitt, Executive Director The shelter has served at least two transgender clients; there has been some tension between trans and non-trans clients; Hitt views this as general lack of knowledge among clients about trans people.
Additional notes	

City	Tacoma, Washington
Information provided by:	Staff still in process of making contact with Human Rights staff in Tacoma
Year gender identity protection added to code	2002
Added same time as sexual orientation?	Yes
Does code contain exemptions pertaining to places of public accommodation?	Yes – Ordinance includes in opening language exemption for nonprofit religious or sectarian organizations; staff is in process of researching how this applies to specific sections of the code.
Details of any opposition to and/or support for code during proposal process	Not known
Details of any education provided to community after code was adopted	Not known
Explanation of any known issues since code was implemented	Not known
Discussion with any homeless shelters in this jurisdiction	Tacoma Rescue Shelter, Galen, Director, 253-272-1974 Faith-based shelter. Director shared philosophy that they disagree with the concept of gender identity and feel that anything but birth gender is wrong. If a trans woman were to come to the shelter, she would be placed in the men's dorm. The one experience the director shared was that after another client complained that a trans woman was in the women's dorm, the staff asked for the trans woman's ID, and, after learning the ID said female, the trans woman was allowed to stay in the women's dorm. Staff was unaware that one's gender on official documents could be changed.
Additional notes	

City	Boulder, Colorado
Information provided by:	Carmen Atilano, Office of Human Rights Program Director, 303-441-3141 Ann Tapp, Director, Safe House Program Alliance (shelter for women who are survivors of domestic violence), 303-449-8623
Year gender identity protection added to Code	2000
Added same time as sexual orientation?	No – sexual orientation added in 1987
Does code contain exemptions pertaining to places of public accommodation?	<p>Yes – uses term “gender variance” instead of “gender identity” in code</p> <p>“Notwithstanding any other provision of this chapter, transitioned transsexuals may use the locker rooms and shower facilities of their new sex and shall be protected by Section 12-1-4, “Discrimination in Public Accommodations Prohibited,” B.R.C. 1981, from any discrimination in their use of such locker rooms and shower rooms.”</p> <p>“Notwithstanding any other provision of this chapter, transitioning transsexuals shall be granted reasonable accommodation in access to locker rooms and shower facilities.”</p> <p>“Gender Variance Exemptions: Competitive sports and sports-related records and sex-segregated housing for persons under age twenty-five shall be exempt from the gender variance discrimination provisions of this chapter.”</p>
Details of any opposition to and/or support for code during proposal process	Received minimal opposition; people in opposition called the Human Rights Office about bathrooms, locker room concerns, but did not testify at public hearings. Did receive some feedback regarding high school students and the issue of “persistent” gender identity; feedback resulted in exception regarding competitive sports and sex-segregated housing above.
Details of any education provided to community after code was adopted	Human Rights program wrote letter to all health clubs and recreation centers before code was enacted; one meeting on issue was held. Program also developed PowerPoint presentation for businesses.
Explanation of any known issues since code was implemented	Human Rights program receives 2-3 complaints per year regarding gender variance; all have been resolved through mediation or settlement.
Discussion with any homeless shelters in this jurisdiction	<p><i>Safe House Program Alliance (shelter for women survivors of domestic violence):</i> Accepts all trans clients who identify as women, regardless of identification or stage of transition. Bedrooms and bathrooms are shared; some are more private than others. Have housed many trans clients. Director says philosophy is that all are welcome; when situations of discomfort arise, attempts are made to resolve issues; some trans and non-trans clients have left shelter because they are not comfortable with situation, but not more often than for other reasons.</p> <p><i>Boulder Shelter for Homeless (private non-profit shelter):</i> Shelter was built after gender identity added to code; separate living spaces were set up for trans clients.</p>
Additional notes	

City	Iowa City, Iowa
Information provided by:	Heather Swank, Human Rights Coordinator, 319-356-5022
Year gender identity protection added to code	1995
Added same time as sexual orientation?	No – sexual orientation was added in 1973
Does contain exemptions pertaining to places of public accommodation?	No
Details of any opposition to and/or support for code during proposal process	No opposition
Details of any education provided to community after code was adopted	Developed a video of a panel discussion on the topic which is available for sale.
Explanation of any known issues since code was implemented	Since gender identity was added in 1995, the Human Rights office has dealt with three gender identity-related cases. Cases focused on bathroom issues.
Discussion with any homeless shelters in this jurisdiction	Staff assured us that they would accept transgender clients, but haven't had the opportunity to date. Said clients would self-identify. No documentation. They have had trainings around gender identity and keep in touch with a former employee that has since transitioned.
Additional notes	After code passed, a city employee transitioned; person still works for the City; also, a city councilor transitioned while in office.

City	Madison, Wisconsin
Information provided by:	Cynthia Wick, Executive Assistant, Equal Opportunities Commission, 608-266-4910 Christy Hall, Affirmative Action Specialist, Human Resources, 608-266-4082 Ann Marie Knittel, transgender community member/activist 608-259-9225
Year gender identity protection added to code	2000
Added same time as sexual orientation?	No – sexual orientation added in 1978
Does code contain exemptions pertaining to places of public accommodation?	No
Details of any opposition to and/or support for code during proposal process	None – Equal Opportunities Commission staff said that a minister launched an attempt to repeal the sexual orientation protection a few years earlier, and opposition to this attempt was so strong that it probably deterred people from opposing gender identity protection.
Details of any education provided to community after code was adopted	Not sure
Explanation of any known issues since code was implemented	City was not aware of complaints. Transgender community member spoke of problems with trans people gaining employment. She also said a person who cross-dresses full-time works for the state library system.
Discussion with any homeless shelters in this jurisdiction	Trans activist said some area faith-based shelters implemented a “waiting period;” asked Equal Opportunities Office staff about this and they said they had not heard of this from trans community or other activists.
Additional notes	

City	Oakland, California
Information provided by:	Staff still in process of making contact with City Clerk's Office (Mayor's Office representative directed staff to this office)
Year gender identity protection added to code	2003
Added same time as sexual orientation?	Not known
Does code contain exemptions pertaining to places of public accommodation?	No; Eugene proposed language is almost identical to Oakland language. This wording was suggested by Lisa Mottet of the Transgender Civil Rights Law Project in New York as inclusive and a best practice in code language. The Gender Identity Work Group chose to support this language.
Details of any opposition to and/or support for code during proposal process	Not known
Details of any education provided to community after code was adopted	Not known
Explanation of any known issues since code was implemented	Not known
Discussion with any homeless shelters in this jurisdiction	East Oakland Community Project, 503-532-3211, Tabitha, Director The shelter has one room with three beds for trans clients; have never had female and male trans clients at same time. Clients self-identify. If client makes derogatory statement, education is provided; if more comments are made, client asked to leave. Director reports overall experience with trans clients have been positive.
Additional notes	

City	Portland, Oregon
Information provided by:	Staff still in process of making contact with former city/county staff involved with code revision.
Year gender identity protection added to code	2000
Added same time as sexual orientation?	No; sexual orientation added previously
Does code contain exemptions pertaining to places of public accommodation?	Yes; same language as Salem, Lake Oswego, Beaverton, and Multnomah County.
Details of any opposition to and/or support for code during proposal process	Not known
Details of any education provided to community after code was adopted	Not known
Explanation of any known issues since code was implemented	Trans activist
Discussion with any homeless shelters in this jurisdiction	Outside-In, 503-535-3805 – state-funded transgender resource center, runs shelter – inclusive Rescue Mission, 503-227-0421 – Faith-based shelter does accept and provides services to transgender clients; has no written policies or training
Additional notes	

City	Ann Arbor, Michigan
Information provided by:	Janet Carpenter, Human Resources Mgt. Assistant, 734-994-2803 Abby Elias, City Attorney's Office, 734-994-4368
Year gender identity protection added to code	1999
Added same time as sexual orientation?	No – sexual orientation added in 1978
Does code contain exemptions pertaining to places of public accommodation?	No
Details of any opposition to and/or support for code during proposal process	Very little opposition; a lot of support. Effort was organized by city councilor who is now a representative in the state legislature.
Details of any education provided to community after code was adopted	Not known
Explanation of any known issues since code was implemented	Since code was enacted, least one city employee has transitioned on job with no problem.
Discussion with any homeless shelters in this jurisdiction	Not known
Additional notes	

Human Rights Commission Gender Identity Proposed Code Revisions

Code Language Related to Gender Identity Regarding Places of Public Nudity September, 2005

Background: When the Human Rights Commission proposed code language in 2002 that included gender identity as a protected class, it copied language used in Portland and Multnomah County. This language included an exception in the public accommodation section that said it was not an unlawful practice for places of accommodation to require documentation of a person's gender identity or transitional status. The commission used the strategy of proposing language as similar as possible to other code languages because this language had passed in other jurisdictions and transgender people involved with the code language development voiced no objections. Staff completed a minimal amount of research about code language outside of Oregon. At that time, Salem was in the process of passing similar language and only Portland, Multnomah County and Benton County had already added gender identity protection language.

When the Gender Identity Work Group started working on a proposal for code language in January 2005, many members voiced concerns about the public accommodation exception and wanted to develop language that included all people who identify as transgender or gender variant. Staff and Gender Identity Work Group members started researching this issue and received legal opinions from Lisa Mottet, who is Legislative Lawyer with the Gay and Lesbian National Task Force's Transgender Civil Rights Project in New York and an expert on gender identity code language across the country. Ms. Mottet told staff and volunteers that the public accommodation exception language used in Oregon is not used elsewhere. Staff found this to be generally true, though some other types of exceptions seem to exist. That research is contained later in this document.

Members of the work group proposed that the Oakland, California code language related to public accommodation (see language later in this document) be used instead of the language used in 2002. After discussion and input from City Attorney Jerry Lidz, the group decided the code would provide the most comprehensive legal protection if the words "shower, and locker rooms" were added to the wording in the code that mentioned bathrooms and dressing rooms.

Attached are various code language examples with and without exceptions. Please note that this is not an exhaustive list of code language, as over 80 cities, counties, and states have language that includes gender identity.

A. Currently proposed Eugene language:

4.635 Human Rights - Public Accommodations Practices.

- (1) It shall be an unlawful public accommodations practice for a place of public accommodation, a person acting on behalf of a place of public accommodation, or for any person to assist a place of public accommodation or a person acting on behalf of such place to:
 - (c) Deny any individual access to the full and equal enjoyment of the privileges, benefits, goods, services, and existing facilities of such place of public accommodation, including restrooms, dressing rooms, showers and locker rooms that the individual deems most appropriate for that individual's gender identity.

B. Code language that does not include an exception for places of public nudity

Oakland, California

It shall be an unlawful practice for any person to deny any individual access to the full and equal enjoyment of privileges, benefits, goods, services and facilities, including dressing and bathroom facilities, consistent with the person's gender identity.

Boston, Massachusetts

...it shall be an unlawful and discriminatory practice to prevent or prohibit the use of restrooms, baths, showers, dressing rooms, or other private accommodations based on the gender identity publicly and exclusively expressed or asserted by the person seeking to use such restrooms, baths, showers, dressing rooms, or other private accommodations.

Austin, Texas

A person, including the owner, operator, or lessee of a public accommodation may not directly or indirectly exclude, segregate, limit, refuse or deny a person the accommodations, advantages, facilities, benefits, privileges, services, or goods of the public accommodation based on race, color, religion, sex, sexual orientation, gender identification, national origin, age, or disability.

Ithaca, New York (uses definition of "gender" instead of "gender identity")

Nothing in this subsection shall be construed to prevent the barring of any person, because of the gender of such person, from places of public accommodation, resort or amusement if Common Council grants an exemption based on bona fide considerations of public policy...

C. Code language that includes some type of exception for places of public nudity

Portland, Oregon (same language is used in Salem, Beaverton, Lake Oswego, and Multnomah County, Oregon)

The prohibitions in this Chapter against discriminating on the basis of gender identity do not prohibit:

Health or athletic clubs or other entities that operate gender-specific facilities involving public nudity such as showers and locker rooms, from requiring an individual to document their gender or transitional status. Such documentation can include but is not limited to a court order, letter from a physician, birth certificate, passport, or driver's license.

Boulder, Colorado

Notwithstanding any other provision of this chapter, transitioned transsexuals may use the locker rooms and shower facilities of their new sex and shall be protected by [Section 12-1-4](#), "Discrimination in Public Accommodations Prohibited," B.R.C. 1981, from any discrimination in their use of such locker rooms and shower rooms.

Notwithstanding any other provision of this chapter, transitioning transsexuals shall be granted reasonable accommodation in access to locker rooms and shower facilities.

Gender Variance Exemptions.

Competitive sports and sports-related records and sex-segregated housing for persons under age twenty-five shall be exempt from the gender variance discrimination provisions of this chapter.

State of New Mexico

Nothing contained in the Human Rights Act shall apply to public restrooms, public showers, public dressing facilities or sleeping quarters in public institutions, where the preference or limitation is based on sex.

State of Illinois

Illinois defines gender identity under the definition of "sex" and/or "sexual orientation":

Sex. "Sex" means the status of being male or female.

Sexual orientation. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.

Sec. 5-103. Exemption. Nothing in this Article shall apply to:

Facilities Distinctly Private. Any facility, as to discrimination based on sex, which is distinctly private in nature such as restrooms, shower rooms, bath houses, health clubs and other similar facilities for which the Department, in its rules and regulations, may grant exemptions based on bona fide considerations of public policy.

No specific code language regarding gender identity and public nudity:

Bend, Oregon
Benton County, Oregon
Tacoma, Washington
Seattle, Washington
Olympia, Washington
Iowa City, Iowa
Madison, Wisconsin
Ann Arbor, Michigan



**Human Rights
Commission**

City of Eugene
777 Pearl Street, Room 105
Eugene, Oregon 97401-2793
(541) 682-5177
(541) 682-5414 FAX
www.ci.eugene.or.us

MEMORANDUM

Date: September 13, 2005

To: Human Rights Commissioners

From: Human Rights Program Staff

Re: **Survey Summary of Telephone Questionnaires - Shelter Research**

At past Human Rights Commission meetings, there have been several questions raised around the proposed gender identity code revision and what effect it may have on local homeless shelters. At the request of the Human Rights Commission to do more research around these issues, staff developed a telephone survey questionnaire and called several homeless shelters in Oregon as well as selected cities across the United States, similar to Eugene in population, that have trans-inclusive language in their city codes. The attached enclosure contains a summary of the comments made by shelter staff to the following questions created by the Human Rights Program staff:

- 1) Do you accept transgender clients into your shelter?
 - a. Do you have sex-segregated dormitories?
 - b. Do you allow transgender clients to self-identify?
 - c. Do you require documentation in the area of gender identity?
- 2) Do you have a written or understood 'in-house' anti-discrimination policy available at your shelter that clientele and staff are aware of?
 - a. Does it include gender identity?
 - b. How is it enforced? What is your complaint process?
- 3) Has your shelter provided training for staff around the issue of gender identity?
 - a. What types of training have you held?
 - b. Did any of your staff express discomfort around attending the trainings?
- 4) Have you had any safety-related issues, due to the housing of transgender clients?
- 5) Have you had any non-transgender clientele leave because of the presence of transgender individual(s)?
- 6) How has your shelter dealt with transgender clients in areas of public nudity, such as restrooms, showers, sleeping quarters?
 - a. Did your shelter have to make any special accommodations to house transgender clientele? What were they?
- 7) Do you have any final thoughts and/or suggestions for our local shelters?
- 8) Can you recommend any other shelters in the area for me to call that may be of assistance?

For more information on the Human Rights Program efforts regarding gender identity research, please call the office at 541-682-5177, or email: hrc@ci.eugene.or.us or visit our website at: <http://www.eugene-or.gov> and click on City Hall, Human Rights Program, Gender Identity.

Web Site Links:

Transitioning Our Shelters available at <http://www.thetaskforce.org/downloads/TransHomeless.pdf>

Trans Community Access Project of the 519 Project available at <http://www.the519.org>

Basic Tips for Health Care & Social Service Providers available at <http://www.gender.org/resources/dge/gea01006.pdf>

Eugene Human Rights Commission – Gender Identity Proposed Code Revision Research Homeless Shelter Research

Contacted Shelters in Oregon:

- **Bethlehem Inn, Bend, OR.....(541) 322-8768 x 11, Liz Hitt, Executive Director**
Bethlehem Inn has housed at least two trans clients. They have had problems with trans and non-trans clients; Ms. Hitt perceived this as a general lack of understanding and tolerance among the homeless population.
- **WOMENSPACE, Eugene, OR.....(541) 485-7262, Cindy Hirschhorn, Crisis Line, Outreach Manager**
Has worked with and will work with trans-community members. They accept all people who identify as female and are in need of services. At time of contact, Cindy was unaware of any issues and/or problems occurring due to a person's gender identity.
- **New Avenues, Portland, OR.....(503) 517-3903, General Info, (503) 223-2050, Megan Lammer, Supervisor**
(503)517-3921, Sean Sube, Program Director, Website: www.newavenues.org

Clients self-identify at intake, regardless of their documents or staff assumptions. Clients use the facilities that they identify with, with assumed safety. Staff is well-trained on trans-issues and gender expression. Have Screening Tools document that they use to confidentially identify transgender clients at intake.

- **Outside-In, Portland, OR.....(503) 823-4930 – Gender Identity Resource Center for Shelters & Community**
Website: http://www.resourcespdx.org/support_groups.html
- **Rescue Mission, Portland, OR..... (503) 227-0421, Jerry Marshall, Director**
The facility provides services and shelter to transgender clients; however, they have no written policies and have had no trainings around the issue. They accept trans clientele on the premise of their mission to be non-discriminatory towards all people, in the tradition of Jesus; though their biblical perspective is that transgenderism is wrong.
- **Y.W.C.A. Portland, OR.....(503) 709-6999, Adrian Walmark, Counsel Services/Trans-Inclusion Policy**
Unable to make phone contact. Adrian worked with the transgender community and helped the YWCA form its policies around service to the transgender community.

- **Salvation Army, Salem, OR.....** (503) 585-6688 – Patricia Cuffspith, Supervisor
 - Divisional HQ in Portland (503) 234-0825 – Jack Quinthrow, Regional Mgr.
 As a faith-based shelter, the Salvation Army strives to be non-discriminatory at intake and staff is trained to treat all those in need with dignity and respect. Placement of a trans client would depend on the current dynamics of the shelter, with safety always being the most important consideration. With a separate dormitory for men, women, and families, the Salvation Army feels that, through conversation, they would be able to accommodate trans community members comfortably. They have not considered shower and restroom issues, because to date, it hasn't come up, although they felt that the use of the family dorms, showers and bathrooms would be their first idea to solve the issue.
- **Union Gospel Mission, Salem, OR.....**(503) 362-3983, Randy, Supervisor, (503) 362-3983, Connie, Director
 No changes, no issues, no transgender clients to date [that they know of]. They said that they would assist all community members in need of the mission services.

Contacted Shelters Outside of Oregon:

- **Wood Mullen Shelter, Boston, MA.....**(617) 534-7096, Trudy, Services Coordinator
 Staff is provided with a list of definitions, provided by the Boston Public Health Commission. The client and nursing staff work together through conversation to identify the safest place for a transgender client to stay. Nurses make the final decision on a client's gender; and therefore, where to house the client. The nurse must then log the rationale of the client's choice. Shower options vary for male-to-female (MTF) and female-to-male (FTM) clients; private showers times may be arranged during daytime hours by either, MTF clients can choose to use the women's showers during communal hours, or use the lobby's private shower. FTM clients can choose to use the lobby's private shower, arrange to use the women's showers during daytime hours, or if upper and lower surgery is complete; they may shower in the men's communal area during regular hours. Restrooms coordinate with client's gender identity and they should be allowed to use the restroom that corresponds with their gender identity, given safety considerations.
- **Safe House Program Alliance, Boulder, CO..**(303)-449-8623, Ann Tapp, Director
 This is a women's shelter and they do accept all self-identifying MTF clients. Clients self-identify, regardless of their surgical status, and room assignment is decided through conversations around safety. The shelter has had trans and non-trans women leave because of the their perceived concerns about transgender clients, but there have been more successful interactions than unsuccessful ones. Restroom and sleeping issues have been dealt with by situating trans clients close to the more private restrooms. Their seven bedrooms allow them to have rooms shared or not, depending on the climate of the shelter at the time.

- **Shelter House, Iowa City, IA.....(319) 338-5416 x 102, Krissy Kangallely**
 - Is aware of the City's anti-discrimination code and supports all facets of it. The shelter has not yet had a transgender client [to their knowledge] but would allow them to self-identify when the situation does arise. Their zero-tolerance policy on harassment and discrimination would require the person doing the harassing to leave, not the one being discriminated against. This shelter has a former staff member who is transitioning and they have one staff member who teaches gender identity issues at regular staff meetings.
- **Catholic Charities of Minneapolis, MN.....(612) 338-8093, Dominic, Supervisor**
 - This shelter is an all male shelter and will not discriminate on any basis. They will accept transgender clients, based on documentation or proof of post-operative status. The shelter has housed several cross-dressers and homosexuals. The issue of safety and rape is their number one concern, and feel that, "if you can have homosexuals and cross-dressers all together in the men's dorm, there is no reason why trans individuals should be treated any differently."
- **East Oakland Community Project, CA.....(510) 532-3211, Tabitha, Director**
 - This shelter has one room with three beds for trans individuals. They have never had a MTF and FTM client at the same time, the question led them to ponder this issue. They allow clients to self-identify and house them in one huge co-ed area, separated by sex-segregated rooms, not dorms. The staff holds several sensitivity trainings around various discrimination issues, including gender identity. They have never had any safety issues around housing transgender clients, and have not had non-trans clientele leave due to the presence of a transgender individual in the shelter. They have heard derogatory statements and they have dealt with through trying to educate the person around transgender issues. If unsuccessful, it is the offender that would be asked to leave. Bathrooms are co-ed, but men and women do not use them at the same time. Men are asked to respect women's privacy by calling out 'are there women in here?' before entering. Showers issues are resolved by arranging times outside of normal showering hours. Tabitha said that less than 1% of their clients are transgender, and that their overall experience is a very positive and educational one. When asked if trans clientele ever complained about being "outed" by having separate shower times, Tabitha said that this has never been the case, and that non-trans clients can also have private times if they express sensitivity towards public showering.
- **Multi-Service Center (MSC), San Francisco CA.....(415) 597-7960, Jane Basio or (415) 597-7784, Sofala Mayfield**
 - The MSC welcomes transgender clients and MSC staff reported that most transgender clients go there as their number one choice. They have sex-segregated dormitories and they allow clients to self-identify upon arrival. No documentation is required at the shelter, nor at the intake center – *the two are separate*. However, sometimes the intake center reserves a room in the wrong dorm [based on assumptions or miscommunication] and the MSC shelter reserves the right to re-register the client to a gender-appropriate room upon their arrival. The shelter advocates safety as its #1 priority and if there are any discrimination issues, it is the discriminatory behavior that will first be dealt with, first through conversation and attempts at education. The shelter has an in-house, anti-discrimination policy posted 'everywhere' in both Spanish and English. The penalty for hate-speech is expulsion. The staff has had no formal trainings around gender identity, but since seeing an influx in trans clientele in the last 2 ½ years, have utilized the Transgender Community Resource Center and the Tenderloin AIDS Resource Center in their community. The shelter has experienced hostility among staff and

transgender clients, and when education around tolerance wasn't working, those staff members were eventually asked to leave the service of the shelter, because they were not following the mission statement and/or the anti-discrimination policy of the shelter. The MSC has had issues with non trans and trans clients. They house 340 people a night. Most often trouble is caused by disrespectful people mouthing off and 'preachy' folks as the instigators. Violent situations have occurred, but improved training around recognition of issues has helped to alleviate violent outbreaks. Jane said that, "transgender people have certainly started problems too; they're just like anybody else that might have racial indifferences or some other hang up." She felt that the majority of problems involving trans clients are started by non-trans clientele. However, when all was said and done, Jane reported that their experience with trans clientele has been very positive and certainly educational, not only for the staff, but for the other clients as well. The MSC deals with public nudity and restrooms in the following way: All clients must be covered top and bottom at all times outside of the changing area and special times are allotted for trans clientele to access the shower area. The special times are the only accommodations they have made.

- **The Shelter, Seattle, WA.....(206) 694-4506, Shawna, Supervisor**
 - The shelter allows clients to self-identify. Placement is determined after a conversation about shelter dynamics and where the transgender client would feel safest. Staff said transgender issues haven't happened often. The shelter has an anti-discrimination policy and a grievance process for clients facing discrimination. They have provided trainings around transgenderism, and continue to offer them on an annual basis. They work with a local Quaker and lesbian, gay, bisexual, transgender and questioning (LGBTQ) groups. Staff who at first expressed discomfort around Transgender trainings have thanked the shelter for the education and continue to work with all types of people. There have been no safety issues around transgender issues and nobody has left the shelter due to their presence. They have always had single-use restrooms and showers, so accommodation isn't an issue. Also, they have always had a few single occupancy rooms, which could be used by transgender clients.
- **Tacoma Rescue Shelter, Tacoma, WA(253) 272-1974 or (253) 383-4462, Galen, Director**
 - At time of contact, Galen said he was unaware of the City's ordinance, so he was unsure as to the status of his shelter's compliance with the code. He said transgender clients are accepted, but they are housed based on their documentation. Documentation isn't required on the first day, for emergency reasons, but they would be asked to produce it the next day. Their anti-discrimination policy does not include gender identity or sexual orientation because of biblical interpretation. He said the shelter would not put a post-operative female [MTF] in the women's shelter. He recalled a situation where a complaint came up about a client and he thought the person might have been transsexual. Their identification said they were female and she was allowed to stay in the female dormitory. He was surprised to hear that one's gender can be changed on official documents. The staff is aware of transgender people, but hasn't had trainings around it because the shelter staff shares a similar biblical interpretation. They have made no shelter accommodations for transgender people and don't plan on having to do so. The shelter doesn't discriminate in services to transgender or homosexual people, but we won't allow their lifestyle to exist within the walls of their mission. Galen's advice to other shelters is to stick to your guns and your biblical beliefs.



1542 West 1st Avenue • PO Box 1149 • Eugene, Oregon 97440 • Phone 344-3251 • Director Ernest Unger

5/10/05

Gender Identity Information

Who we are

We are a Gospel Rescue Mission, a member of the Association of Gospel Rescue Missions. There are more than 300 member missions nationwide. We are a non-profit corporation as described in section 501(c)3 of the Internal Revenue Code. No government funding is received. We are a faith based organization with a local Board of Directors. For nearly 50 years, the Eugene Mission has been a place of "Hope For The Homeless" rescuing them off the street.

What we provide

We provide food, clothing, shelter and a rehabilitation program to homeless men, women and children. Services in our dayrooms are: restrooms, showers, laundry, haircuts, baggage storage, etc.

How are we organized

We have 3 separate lodges on the Mission complex:

Men's Center

Women's Center

Mother & Children's Center

There is no private family housing or private individual housing for transient guests on the Mission complex.

Eugene Mission's Gender Identity Policy

1. Gender identity is a person's actual gender at birth.
2. The Eugene Mission offers its public accommodation services on an equal opportunity basis.
3. We provide reasonable accommodation for reasonable conformity to our policies.
4. Men will receive services in the Men's Center. Women will receive services in the Women's Center. Mothers and children will receive services in the Mother & Children's Center.
5. For the sake of receiving emergency shelter services in a public setting, reasonable conformity is necessary to prevent disruptions. Men and women are required to wear clothing appropriate to their gender identity consistent with the center he/she is staying in. An ample supply of free clothing is available.
6. It is our intent to comply with all city ordinances, so long as such compliance would not, in the judgment of the Mission, substantially burden its exercise of religion.

Men

Women

Children

Food

Bed

Gospel